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9 UNITED STATES DISTRICT COURT  
10 EASTERN DISTRICT OF WASHINGTON

11 MUHAMMAD AHSUN YUSUF  
MUHAMMAD AHMAD YUSUF,

12 Plaintiffs,

13 vs.

14 MICHAEL B. MUKASEY, ET AL,

15 Defendants.  
16  
17

NO. CV-07-3105-CI

ORDER GRANTING MOTION AND  
REMANDING PETITION FOR  
HEARING ON NATURALIZATION  
APPLICATION TO THE  
CITIZENSHIP AND  
NATURALIZATION SERVICE  
WITH INSTRUCTIONS

18 Before the Court is the parties' stipulated Motion for Remand (Ct. Rec. 13.)  
19 Attorney Ijaz Mohammed Khan represents Plaintiffs; Assistant United States  
20 Attorney Frank A. Wilson represents Defendants. The parties have consented to  
21 proceed before a magistrate judge. (Ct. Rec. 5.) The Court has read and  
22 considered the papers filed in connection with the motion for an Order remanding  
23 Plaintiffs MUHAMMAD AHSUN YUSUF and MUHAMMAD AHMAD  
24 YUSUF'S Petition for Hearing on Naturalization Application to the United States  
25 Citizenship and Immigration Service (USCIS), and now HEREBY GRANTS the  
26 motion for the following reasons:

27 1. On January 23, 2008, Plaintiffs served a Petition for Naturalization,  
28 Pursuant to 8 U.S.C. § 1447(b) and Mandamus ("Petition") upon Defendants.

1 Plaintiffs ask the Court to adjudicate their Form N-400 Application for  
2 Naturalization (“Application”). See Petition, p. 7 (Prayer for Relief ¶).

3 2. The Court has jurisdiction over this action pursuant to 8 U.S.C. §  
4 1447(b), which provides:

5 If there is a failure to make a determination under section 1446 of this title  
6 before the end of the 120-day period after the date on which the examination  
7 is conducted under such section, the applicant may apply to the United  
8 States district court for the district in which the applicant resides for a  
9 hearing on the matter. Such court has jurisdiction over the matter and may  
either determine the matter or remand the matter, with appropriate  
instructions, to the Service to determine the matter.

8 U.S.C. § 1447(b) (emphasis added).

10 3. Under Section 1447(b), the Court has two options. The first option is  
11 to “determine the matter.” See United States v. Hovsepian, 359 F.3d 1144, 1160  
12 (9<sup>th</sup> 2004) (quoting 8 U.S.C. § 1447(b)). Section 1447(b) also allows the Court, in  
13 lieu of the first option of “determin[ing] the matter,” to “remand the matter, with  
14 appropriate instructions, to the Service to determine the matter.” Id.

15 4. The Plaintiffs and Defendants are before the Court with a Motion to  
16 Remand the Petition to USCIS (“Motion”). Remanding this action to USCIS  
17 would serve the interests of efficiency and judicial economy.

18 5. Furthermore, a remand would not preclude the filing of a subsequent  
19 district court action by Plaintiffs in the event that USCIS should deny the  
20 Application. See 8 U.S.C. § 1421(c).

21 Therefore, for the foregoing reasons, the Court HEREBY GRANTS the  
22 Motion (**Ct. Rec. 13**) and ORDERS as follows:

23 1. The Court REMANDS the Petition to USCIS with instructions to  
24 adjudicate and issue a decision in the Application within one-hundred eighty (180)  
25 days after entry of this Order;

26 2. The Court DISMISSES Plaintiffs’ action without prejudice and  
27 without costs or attorneys fees; and  
28

1        3.        The Court shall retain jurisdiction to enforce the terms of this Order.

2        **IT IS SO ORDERED.**

3        **IT IS FURTHER ORDERED** that the Clerk of the Court shall file this  
4 Order and provide a copy to counsel for Plaintiffs and Defendants.

5        DATED July 14, 2008.

6                                S/ CYNTHIA IMBROGNO  
7                                UNITED STATES MAGISTRATE JUDGE  
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